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8 IN THE UNITED STATES DISTRICT COURT FOR THE
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) No. CR. S-97-381 FCD
11)
Plaintiff,) SECOND STIPULATION AND ORDER
12) CONTINUING BRIEFING SCHEDULE
v.) AND RESETTING HEARING DATE ON
13) THE UNITED STATES' DESTRUCTION
BRYAN JAMES EPIS,) OF EVIDENCE SEIZED FROM
14) DEFENDANT
Defendant.)
15 _____) Date: February 6, 2006
Time: 9:30 p.m.
Court: Hon. Frank C. Damrell
16

17 Whereas, by previous stipulation and order filed on December
18 20, 2005, the Court set the following schedule for the submission
19 of papers and a hearing in connection with the United States'
20 destruction of evidence seized from defendant Bryan Epis'
21 residence:

- 22 1. Submission from the United States due by January 9,
23 2005;
24 2. Defendant's response due by January 23, 2006; and
25 3. Status Conference set for February 6, 2006, at 9:30
26 a.m., at which time the Court would determine whether

1 to set an evidentiary hearing for a later date.

2 Whereas, the United States requests a additional continuance
3 of the dates described above for the following reasons. The
4 undersigned prosecutor has been informed that one of the prior
5 evidence custodians for the Butte County Sheriff's Department who
6 handled some of the evidence in the Bryan Epis cases has retired.
7 The present evidence custodian is on leave until January 9, 2005,
8 and that evidence custodian will need at least one week or more
9 after he returns to work to investigate and provide written
10 reports on what happened to the evidence in the 1994 and 1997
11 investigations of Bryan Epis. January 16, 2006, will be observed
12 as Martin Luther King Day, a holiday. The response from the
13 Butte County Sheriff's Department may cause the prosecutor to
14 make additional inquiries to the evidence custodian, and that
15 additional investigation will take additional time.

16 It is hereby stipulated and agreed by the parties, through
17 their respective attorneys, and subject to the approval of the
18 Court that:

- 19 1. The dates described above are hereby vacated;
20 2. The United States' submission shall be due by January
21 30, 2006;
22 3. Epis' response shall be due by February 20, 2006; and

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4. The Court shall hold a non-evidentiary status hearing on the United States' destruction of evidence seized from Epis' residence on February 27, 2006, at 9:30 a.m. In the event that the Court determines that an evidentiary hearing is necessary, an evidentiary hearing for a later date shall be set at that hearing.

Dated: January 9, 2006

McGREGOR W. SCOTT
United States Attorney

/s/ Samuel Wong

By:

SAMUEL WONG
Assistant U.S. Attorney

Dated: January 9, 2006

/s/ Brenda Grantland

BRENDA GRANTLAND
Attorney for defendant
Bryan James Epis (per email
authorization on 1/9/06)

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ORDER

The Court having received, read, and considered the above stipulation of the parties, and good cause appearing therefrom,

The Court hereby adopts the stipulation of the parties in its entirety as its order.

It is so ORDERED.

Dated: January 12, 2006

/s/ Frank C. Damrell Jr.
FRANK C. DAMRELL JR.
United States District Judge